

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #1	CCRB Case #: 201709450	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/28/2017 5:35 AM, Friday, 09/29/2017 , Saturday, 09/29/2018	Location of Incident: [REDACTED]	Precinct: 47	18 Mo. SOL 3/28/2019	EO SOL 3/28/2019	
Date/Time CV Reported Mon, 11/06/2017 10:41 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/14/2017 11:02 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Bjondin Skender	29051	951269	047 PCT
2. DTS Jeremiah Williams	5408	927673	047 PCT
3. SGT Eric Florio	00997	943245	INT CIS
4. An officer			047 PCT
5. POM Michael Gonzalez	24102	943312	047 PCT
6. DTS John Facchini	04188	930116	ESS 02

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Escudero	26192	948333	047 PCT
2. DTS Lenno Hendricks	04817	925441	E S U
3. DC Ruel Stephenson	00000	916748	047 PCT
4. POM Jozsef Tass	28671	920887	047 PCT
5. DTS Patrick Barry	00249	917283	E S U
6. DTS Terry Avent	01029	932280	E S U
7. DTS Shawn Soler	05036	927537	E S U
8. DTS Steven Orlando	4489	934649	ESS 09
9. SSA Donald Abrams	00085	921890	E S U
10. DTS Vincent Caputo	04145	928015	ESS 02
11. DTS Andrew Leiper	7425	942052	ESS 06

Officer(s)	Allegation	Investigator Recommendation
A.SGT Eric Florio	Abuse: On September 28, 2017, Sergeant Eric Florio searched § 87(2)(b) in the Bronx.	[REDACTED]
B.SGT Eric Florio	Abuse: On September 28, 2017, Sergeant Eric Florio entered § 87(2)(b) in the Bronx.	[REDACTED]
C.DTS John Facchini	Discourtesy: On September 28, 2017, at § 87(2)(b) in the Bronx, Detective John Facchini spoke discourteously to § 87(2)(b)	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
D.DTS John Facchini	Abuse: On September 28, 2017, at § 87(2)(b) in the Bronx, Detective John Facchini threatened § 87(2)(b) with the use of force.	
E.DTS John Facchini	Discourtesy: On September 28, 2017, at § 87(2)(b) in the Bronx, Detective John Facchini spoke discourteously to § 87(2)(b)	
F. An officer	Abuse: On September 28, 2017, at § 87(2)(b) in the Bronx, an officer interfered with individuals' use of recording devices.	
G.POM Michael Gonzalez	Abuse: On September 28, 2017, at § 87(2)(b) in the Bronx, Police Officer Michael Gonzalez refused to provide his shield number to § 87(2)(b)	
H. An officer	Abuse: On September 28, 2017, at § 87(2)(b) in the Bronx, an officer interfered with § 87(2)(b)'s use of a recording device.	
I.SGT Eric Florio	Abuse: On September 28, 2017, at § 87(2)(b) in the Bronx, Sergeant Eric Florio failed to show the search warrant to § 87(2)(b)	
J.SGT Eric Florio	Abuse: On September 28, 2017, at § 87(2)(b) in the Bronx, Sergeant Eric Florio refused to provide his name and shield number to § 87(2)(b)	
K.DTS Jeremiah Williams	Abuse: On September 28, 2017, at § 87(2)(b) in the Bronx, Detective Jeremiah Williams refused to provide his name and shield number to § 87(2)(b)	
L.SGT Eric Florio	Abuse: On September 29, 2017, at the 47th Precinct stationhouse, Sergeant Eric Florio threatened to arrest § 87(2)(b)	
M.POM Bjondin Skender	Abuse: On September 29, 2017, at the 47th Precinct stationhouse, Police Officer Bjondin Skender threatened to arrest § 87(2)(b)	

### Case Summary

On November 6, 2017, § 87(2)(b) filed this complaint on behalf of himself, his friend, § 87(2)(b) and his neighbors, § 87(2)(b) and § 87(2)(b) with the Internal Affairs Bureau via telephone, generating IAB log number 17/44602. On November 14, 2017, IAB referred this case to the CCRB.

On September 28, 2017, at approximately 5:35 a.m., officers from the 47<sup>th</sup> Precinct Field Intelligence Office and the Emergency Services Unit Apprehension Tactical Team executed a valid no-knock search warrant at the home of § 87(2)(b) at § 87(2)(b) § 87(2)(b) in the Bronx (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). Det. John Facchini of the Emergency Services Unit allegedly said, “Get the fuck on the floor or I’ll shoot you in your head,” and, “Stop before I shoot you,” to § 87(2)(b) and allegedly told § 87(2)(b) that he would shoot him if he turned again (**Allegations C: Discourtesy and Allegation D: Abuse of Authority, § 87(2)(g)**). Det. Facchini allegedly said, “Shut the fuck up and get on the ground. Put your hands behind your back and don’t move,” to § 87(2)(b) (**Allegation E: Discourtesy, § 87(2)(g)**). § 87(2)(b) s neighbors, known only as § 87(2)(b) and § 87(2)(b) attempted to film the incident from outside the apartment, and an unidentified officer allegedly told them that they could not film and had to leave the area (**Allegations F: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) requested PO Michael Gonzalez’s (of the 47<sup>th</sup> Precinct) shield number, and PO Gonzalez allegedly replied, “I forgot (**Allegation G: Abuse of Authority, § 87(2)(g)**).” § 87(2)(b) also attempted to film the incident, and an unidentified officer allegedly told him that he could not come downstairs due to an active police investigation (**Allegation H: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) asked Sgt. Eric Florio of the Criminal Intelligence Section (47<sup>th</sup> Precinct Field Intelligence Officer) to show her the search warrant, and Sgt. Florio allegedly told her that he did not have to show her anything, and he allegedly never showed her the warrant (**Allegation I: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) asked Sgt. Florio and Det. Williams for their names and shield numbers, and Sgt. Florio and Det. Williams allegedly identified themselves as “Flo” and “Jay,” respectively, and allegedly did not provide their shield numbers to § 87(2)(b) (**Allegations J and K: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) were arrested for firearms and narcotics that were found in the apartment.

On September 29, 2017, at approximately 3:00 p.m., § 87(2)(b) went to the 47<sup>th</sup> Precinct stationhouse to get her arrest paperwork. Sgt. Florio allegedly told her that she would be arrested if she made contact with § 87(2)(b) and PO Bjondin Skender allegedly told her that she would be arrested if she returned to § 87(2)(b) s apartment.

A video filmed on a department-issued cell phone shows Sgt. Florio holding a document inside the apartment and stating that this document is a search warrant. This video can be found in Board Review 01 and is also attached to IA # 150.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: On September 28, 2017, Sergeant Eric Florio entered § 87(2)(b) in the Bronx.**

**Allegation (B) Abuse of Authority: On September 28, 2017, Sergeant Eric Florio searched § 87(2)(b) in the Bronx.**

The investigation determined that the entry into and search of § 87(2)(b) in the Bronx on September 28, 2017 was conducted in accordance with valid Bronx County no-knock search warrant number § 87(2)(b), which was signed by the § 87(2)(b) on § 87(2)(b) (Board Review 02). The Tactical Plan (Board Review 03) lists Sgt. Eric Florio as the officer who obtained the search warrant. § 87(2)(g)

**Allegation (C) Discourtesy: On September 28, 2017, at § 87(2)(b) in the Bronx, Detective John Facchini spoke discourteously to § 87(2)(b)**

**Allegation (D) Abuse of Authority: On September 28, 2017, at § 87(2)(b) in the Bronx, Detective John Facchini threatened § 87(2)(b) with the use of force.**

**Allegation (E) Discourtesy: On September 28, 2017, at § 87(2)(b) in the Bronx, Detective John Facchini spoke discourteously to § 87(2)(b)**

§ 87(2)(b) (Board Review 04) stated that he heard a buzzing sound at his front door that lasted for 10 to 20 seconds and that no one announced his or her presence through the closed door. § 87(2)(b) feared for his life and attempted to retrieve his pistol from underneath his bed, but he was not able to grab it before the door was forced open. § 87(2)(b) walked from his bedroom to his hallway without his pistol to see what was happening. He stated that Det. Facchini pointed his MP5 machine gun towards him and said, “Get the fuck on the floor or I’ll shoot you in your head.” § 87(2)(b) complied and laid flat on the floor by his bedroom door. § 87(2)(b) was also handcuffed, and when § 87(2)(b) turned his head to see what was happening, Det. Facchini allegedly told him that he would shoot him if he turned again. Det. Facchini stepped on the back of § 87(2)(b)’s motionless calf. § 87(2)(b) asked Det. Facchini why he was stepping on him, and Det. Facchini allegedly replied, “Stop before I shoot you.” § 87(2)(b) made no mention of any officer using profanities towards § 87(2)(b)

§ 87(2)(b) (Board Review 05) believed § 87(2)(b) had his pistol in his hand when he went to the hallway. She stated that Det. Facchini told § 87(2)(b) to get down and that he complied. § 87(2)(b) did not believe Det. Facchini cursed at § 87(2)(b) and she did not recall Det. Facchini threatening to shoot § 87(2)(b). She noted that she was able to hear Det. Facchini’s statements towards § 87(2)(b). Det. Facchini then pointed his gun at § 87(2)(b) and allegedly said, “Shut the fuck up and get on the ground. Put your hands behind your back and don’t move.” § 87(2)(b) complied and was handcuffed by Det. Facchini.

According to the Emergency Services Unit Warrant Execution Supplemental Report (Board Review 18), Det. Facchini and Det. Lenno Hendricks of the Emergency Services Unit were carrying MP5 submachine guns, and Det. Facchini handcuffed § 87(2)(b)

Det. Facchini (Board Review 06) denied saying, “Get the fuck on the floor or I’ll shoot you in your head,” “Stop before I shoot you,” and, “Shut the fuck up and get on the ground. Put your hands behind your back and don’t move.” He also denied using profanities at any point and threatening to shoot § 87(2)(b). However, Det. Facchini noted that he had no specific

recollection of this incident or of § 87(2)(b) or § 87(2)(b) Det. Lenno Hendricks of the Emergency Services Unit (Board Review 07) was inside the apartment with Det. Facchini, and he had no memory of any officer making these statements, but he also noted that he had no specific recollection of this incident. Sgt. Florio, Det. Williams, PO Gonzalez, PO Skender, and PO Matthew Escudero of the 47<sup>th</sup> Precinct (Board Review 08, 09, 10, 11, 12) were each standing outside of the building while ESU was securing § 87(2)(b) and none of them had any memory of these statements being made to § 87(2)(b).

§ 87(2)(g)

**Allegation (F) Abuse of Authority: On September 28, 2017, at § 87(2)(b) in the Bronx, an officer interfered with individuals' use of recording devices.**

**Allegation (H) Abuse of Authority: On September 28, 2017, at § 87(2)(b) in the Bronx, an officer interfered with § 87(2)(b)'s use of a recording device.**

§ 87(2)(b) stated that his neighbor, whom he knows only as § 87(2)(b) attempted to film the officers' initial entry into the apartment, and that an officer in khaki-colored shorts told him that he could not stand where he was standing or film the incident and that he had to continue to his destination. § 87(2)(b) complied and walked away. As the officers exited the apartment to execute another search warrant (leaving § 87(2)(b) and § 87(2)(b) with PO Gonzalez and PO Escudero), another neighbor, whom § 87(2)(b) knows only as § 87(2)(b) also attempted to film the incident, and the officer allegedly told him that he had to "keep it pushing" and make his way upstairs. A third neighbor, identified by the investigation as § 87(2)(b) attempted to come downstairs to film the incident when the officers returned to § 87(2)(b) from their other search warrant, and the officer allegedly told him that he could not come downstairs due to an active police investigation. § 87(2)(b) stated that the door to his apartment was slightly open and that he saw § 87(2)(b) and § 87(2)(b) each holding their phones, but he was only able to see that the subject officer was wearing khaki-colored pants and was standing in the hallway. § 87(2)(b) was unable to provide any contact information for § 87(2)(b) or § 87(2)(b).

§ 87(2)(b)'s statement was generally consistent with § 87(2)(b)'s. However, she did not recall seeing § 87(2)(b) and she was not sure whether the officer who interfered with § 87(2)(b)'s recording was the same one who interfered with § 87(2)(b)'s recording. § 87(2)(b) described the officer who interfered with § 87(2)(b)'s recording as a Hispanic male in his early 40s who was 5'10" to 5'11" tall and had an average build, a brown complexion, a shaved bald head, and brown eyes. She noted that this officer was wearing khaki shorts and a grey shirt.

On December 28, 2017, a call was made to § 87(2)(b) who stated that he was not familiar with the incident in question but asked for a call back the following day. Contact attempts to § 87(2)(b) were exhausted, and the undersigned was unable to re-establish contact with § 87(2)(b). Searches of Lexis Nexis and CLEAR yielded no results for anyone named § 87(2)(b) or § 87(2)(b) who resides at § 87(2)(b).

Each of the officers wearing plainclothes at the scene was interviewed (with the exception of PO Jozsef Tass of the 47<sup>th</sup> Precinct, a white male who retired on December 8, 2017), and each denied

telling anyone that they could not film. None of the officers had any recollection of any other officer preventing anyone from filming the incident. Photographs of each of these plainclothes officers were obtained (Board Review 13). Of these officers, Det. Williams' pedigree most closely matches § 87(2)(b)'s physical description of the subject officer. Det. Williams is a § 87(2)(b) year-old black male who is 5'10" tall, weighs 220 pounds, and has a bald head, brown eyes, and a light brown complexion. None of the other plainclothes officers match § 87(2)(b)'s description. However, § 87(2)(b) noted that Det. Williams was wearing jeans while the subject officer wore khaki-colored shorts. Sgt. Florio is the only officer visible in the video filmed on a department-issued cell phone (Board Review 01).

§ 87(2)(g)

**Allegation (G) Abuse of Authority: On September 28, 2017, at § 87(2)(b) in the Bronx, Police Officer Michael Gonzalez refused to provide his shield number to § 87(2)(b)**

**Allegation (J) Abuse of Authority: On September 28, 2017, at § 87(2)(b) in the Bronx, Eric Florio refused to provide his name and shield number to § 87(2)(b)**

**Allegation (K) Abuse of Authority: On September 28, 2017, at § 87(2)(b) in the Bronx, Detective Jeremiah Williams refused to provide his name and shield number to § 87(2)(b)**

§ 87(2)(b) stated that while she and § 87(2)(b) were in the living room with PO Gonzalez and PO Escudero (while the other officers were executing the second search warrant), she asked PO Gonzalez for his name and shield number, and he stated his name to her. § 87(2)(b) asked PO Gonzalez for his shield number and he allegedly replied, "I forgot." § 87(2)(b) asked PO Gonzalez for his shield number again, and he allegedly did not provide it to her. When the remaining officers returned to the apartment, § 87(2)(b) asked Sgt. Florio and Det. Williams for their names and shield numbers. Sgt. Florio allegedly replied, "You can call me Flo," and Det. Williams allegedly replied, "You can call me Jay." Neither Sgt. Florio nor Det. Williams provided their shield numbers to § 87(2)(b).

§ 87(2)(b) stated that § 87(2)(b) requested PO Gonzalez's, Sgt. Florio's, and Det. Williams' names and shield numbers, and that PO Gonzalez stated his first initial, last name, and shield number. Before leaving the apartment to execute the second search warrant, Det. Williams stated his first initial and last name and showed § 87(2)(b) his shield upon his request. § 87(2)(b) did not indicate whether Det. Williams also showed his shield to § 87(2)(b) or whether Det. Williams provided his name or shield number to § 87(2)(b) when the officers returned to the apartment. § 87(2)(b) stated that Sgt. Florio identified himself as "Flo." The officers were yelling out their shield numbers, and § 87(2)(b) was unable to remember these numbers and complained that the officers did not write them down.

PO Gonzalez stated that § 87(2)(b) did not request his or any other officer's name or shield number. Sgt. Florio stated that § 87(2)(b) requested his name and shield number and that he stated his name and shield number to her in response. He was unaware of § 87(2)(b) requesting any other officer's name or shield number and stated that no officer refused to provide his name or shield number to her. Det. Williams stated that § 87(2)(b) did not request his name or shield number, and he stated that he did not return to § 87(2)(b) after he left to execute the second search

warrant. PO Escudero did not know whether § 87(2)(b) requested PO Gonzalez's, Sgt. Florio's, or Det. Williams' name or shield number. Det. Facchini and Det. Hendricks were not present in § 87(2)(b) when § 87(2)(b) allegedly requested PO Gonzalez's, Sgt. Florio's, and Det. Williams' names and shield numbers.

§ 87(2)(g)

**Allegation (I) Abuse of Authority: On September 28, 2017, at § 87(2)(b) in the Bronx, Sergeant Eric Florio failed to show the search warrant to § 87(2)(b)**

§ 87(2)(b) stated that when Sgt. Florio returned to the apartment (after executing the other search warrant), he waved a paper in the air. § 87(2)(b) moved her head closer to the paper in an attempt to read it, and Sgt. Florio pulled it away from her and stepped back. Sgt. Florio recited what was printed on the paper, which he claimed to be a warrant. § 87(2)(b) was never shown this paper. Sgt. Florio took out a smartphone and started recording § 87(2)(b) and § 87(2)(b). While Sgt. Florio was recording, § 87(2)(b) asked him to show her the warrant, but he allegedly told her that he did not have to show her anything. At no point was § 87(2)(b) shown a warrant.

§ 87(2)(b) stated that Sgt. Florio held a document he claimed to be a warrant approximately one foot away from him for approximately five seconds and then put it back into his pocket. He stated that § 87(2)(b) asked Sgt. Florio to show her the warrant and that she was never shown it.

Sgt. Florio stated that § 87(2)(b) and § 87(2)(b) asked to see the search warrant and he showed it to them. Sgt. Florio did not know exactly when they made this request, but he noted that they made it many times. § 87(2)(b) and § 87(2)(b) told Sgt. Florio that he was lying and that the officers only recently had a judge sign the warrant, and Sgt. Florio told them that no judges work at 6:00 a.m. Sgt. Florio showed them the warrant again and made a video to document him showing them the search warrant.

A short video filmed on a department-issued cell phone (Board Review 01) depicts Sgt. Florio, § 87(2)(b) and § 87(2)(b) inside § 87(2)(b). Sgt. Florio says, "Here's a search warrant for 645 232nd Street. Here's Person A (points to § 87(2)(b) and Person B (points to § 87(2)(b)). Here's a search warrant (holds up paper). Thank you." Sgt. Florio does not hold the document up to § 87(2)(b)'s face for her to read it in this video.



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PO Skender stated that § 87(2)(b) asked to see the warrant and that Sgt. Florio showed it to her. PO Escudero did not know who was carrying the warrant or whether Sgt. Florio refused to show the warrant to § 87(2)(b). PO Gonzalez did not recall § 87(2)(b) asking to see the warrant and stated that no officer refused to show her the warrant. Det. Williams, Det. Facchini, and Det. Hendricks stated that they did not return to § 87(2)(b) after they left to execute the second search warrant.

§ 87(2)(g)

**Allegation (L) Abuse of Authority: On September 29, 2017, at the 47th Precinct stationhouse, Sergeant Eric Florio threatened to arrest** § 87(2)(b)

**Allegation (M) Abuse of Authority: On September 29, 2017, at the 47th Precinct stationhouse, Police Officer Bjondin Skender threatened to arrest** § 87(2)(b)

§ 87(2)(b) stated that when she returned to the 47<sup>th</sup> Precinct stationhouse on September 29, 2017 to retrieve her property, Sgt. Florio told her that she would be arrested if she made contact with § 87(2)(b) Ottey Bey, and PO Skender told her that she would be arrested if she returned to § 87(2)(b)'s apartment.

Sgt. Florio stated that he conversed with § 87(2)(b) in his office in the rear of the stationhouse and that there was another officer present during this conversation, but he did not recall whether this officer was PO Skender. Sgt. Florio stated that he told § 87(2)(b) that she would not be allowed to access § 87(2)(b)'s apartment because she did not live there and that she would be arrested if she were to sell drugs or have guns, as had happened the day prior. Sgt. Florio denied telling § 87(2)(b) that she would be arrested if she were to make contact with § 87(2)(b) or that she would be arrested for anything other than selling drugs or having guns. He also stated that no officer told § 87(2)(b) that she would be arrested if she were to return to § 87(2)(b)'s apartment.

PO Skender stated that he and Sgt. Florio conversed with § 87(2)(b) at the stationhouse and that the only topic that was discussed with § 87(2)(b) was her property. He denied telling § 87(2)(b) that she would be arrested if she returned to § 87(2)(b)'s apartment, and he stated that neither he nor Sgt. Florio told § 87(2)(b) that she would be arrested if she made contact with § 87(2)(b).

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b)
  - § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 14).
- Sgt. Eric Florio has been a member-of-service for 11 years and has been a subject in 13 additional CCRB complaints and 33 additional CCRB allegations, none of which were substantiated (Board Review 15). Sgt. Florio's CCRB history does not reflect any apparent pattern applicable to this case.



- Det. John Facchini has been a member-of-service for 15 years and has been a subject in eight additional CCRB complaints and 22 additional CCRB allegations, of which one was substantiated (Board Review 15).
  - Case 200612602 involved a substantiated Stop allegation against Det. Facchini. The Board recommended charges and the NYPD imposed instructions.
- PO Michael Gonzalez has been a member-of-service for 11 years and has been a subject in 19 additional CCRB complaints and 41 additional CCRB allegations, none of which were substantiated (Board Review 15). § 87(2)(g)
- Det. Jeremiah Williams has been a member-of-service for 17 years and has been a subject in 16 additional CCRB complaints and 39 additional CCRB allegations, two of which were substantiated (Board Review 15).
  - Case 200704005 involved substantiated Stop and Frisk allegations against Det. Williams. The Board recommended charges and the NYPD took no disciplinary action (past statute of limitations).
- PO Bjondin Skender has been a member-of-service for six years and has been a subject in two additional CCRB complaints and three additional CCRB allegations, none of which were substantiated (Board Review 15). § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of April 9, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 16).
- § 87(2)(b)
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 17).

Squad No.: 01

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date